was taken ill while at work and died two weeks later from the effects of an internal hemorrhage which might have been caused by muscular strain or exertion. Declarations of the deceased employee furnished the only evidence as to whether the injury arose "out of and in the course of the employment." The Workmen's Compensation Act having authorized the disregard of "technical rules of evidence," the commission based its award upon this hearsay testimony. *Held*, that the award must be annulled, the rule against hearsay not being a "technical rule." *Englebretson* v. *Industrial Accident Commission*, 151 Pac. 421 (Cal.).

On a similar state of facts the New York Workmen's Compensation Commission based an award upon declarations of the deceased employee as to the circumstances of his injury, under an act providing that the commission "shall not be bound by common law or statutory rules of evidence." *Held*, that the award should be affirmed. *Carroll* v. *Knickerbocker Ice Co.*, 155 N. Y. Supp. 1.

For a discussion of these cases, see NOTES, p. 208.

MUNICIPAL CORPORATIONS — ASSESSMENTS FOR LOCAL IMPROVEMENTS — VALIDITY OF FRONTAGE ASSESSMENT FOR PAVING STREET OF VARYING WIDTH. — The assessment for paving a street eight blocks long in defendant city was levied equally in proportion to the frontage of the lots, regardless of the varying width of the street. *Held*, that the assessment was valid. *Kaplan* v. *City of Macon*, 86 S. E. 219 (Ga.).

A special assessment is levied for the purpose of collecting part or all of the cost of an improvement from the property especially benefited by it. *State* v. *Jersey City*, 36 N. J. L. 56. See 21 HARV. L. REV. 533. Consequently the amount of the assessment must not substantially exceed the benefit to the property. *Norwood* v. *Baker*, 172 U. S. 269; *Weed* v. *Boston*, 172 Mass. 28, 51 N. E. 204. See 2 PAGE & JONES, TAXATION BY ASSESSMENT, § 651. Assessments by the frontage method have, however, been generally upheld, on the theory that this method will usually approximate a just result. *Sears* v. *Boston*, 173 Mass. 71, 53 N. E. 138; *Ramsey Co.* v. *Robert P. Lewis Co.*, 72 Minn. 87, 75 N. W. 108. But such assessments are invalid as a confiscation of property without compensation if, in fact, the amount assessed on any property greatly exceeds the benefit received thereby from the improvement. *White* v. *Tacoma*, 109 Fed. 32. In the principal case there is nothing to show that a uniform application of the frontage method would be unjust, or that property fronting on a wide part of the street would reap a greater benefit from the paving than that facing a narrower part. Giving proper effect to the presumption of the validity of the legislative act, the case seems right. See *French* v. *Barber Asphalt Co.*, 181 U. S. 324; *Savannah* v. *Weed*, 96 Ga. 670, 23 S. E. 900.

QUASI-CONTRACTS — RECOVERY FOR BENEFITS CONFERRED WITHOUT CONTRACT — RIGHT OF LIFE BENEFICIARY TO LIEN ON INSURANCE POLICY FOR PREMIUMS VOLUNTARILY PAID. — Insurance policies on a husband's life were assigned with other property to trustees for the use of the wife for life and then for her child. The husband covenanted to pay the premiums, and the trustees had discretion to pay them if he failed to do so. The husband being unable to make the payments, the wife paid the premiums for twenty-five years. On the husband's death the wife claimed a lien on the proceeds of the policy for the amount she paid. *Held*, that she cannot recover. *In re Jones' Settlement*, [1915] 1 Ch. 373.

One who pays the debt of another, unless the payment was unreasonable or officious, may recover the amount from that other on general quasi-contract principles. *Exall* v. *Partridge*, 8 T. R. 308. See 25 HARV. L. REV. 77; 24 HARV.

L. REV. 583. Thus a mortgagee to protect his own interest may pay off a prior incumbrance and hold the mortgagor liable for the amount. *Hogg* v. *Longstreth*, 97 Pa. St. 255; *Milburn* v. *Phillips*, 143 Ind. 93, 42 N. E. 461; *Bowen* v. *Gilbert*, 122 Ia. 448, 98 N. W. 273. In the principal case the husband was legally bound to pay the amount himself, and thus the wife could clearly have a lien on any interest of his. But to repay her the full amount out of the trust fund would practically allow her to force the trustees to pay the premiums and deprive them of their discretion. *In re Waugh's Trusts*, 46 L. J. Ch. 629. See *In re Leslie*, L. R. 23 Ch. D. 552, 560, 561. But if a life tenant pays off an incumbrance, he may enforce contribution from the remainderman. *Downing* v. *Hartshorn*, 69 Neb. 364, 95 N. W. 801; *Whitney* v. *Salter*, 36 Minn. 103, 30 N. W. 755; *Jones* v. *Gilbert*, 135 Ill. 27, 25 N. E. 566. See *In re Leslie*, L. R. 23 Ch. D. 552, 565. Thus, as the wife acted under a strong moral compulsion to protect the interests of her child, on equitable principles she should be entitled to contribution from the remainderman for his proportionate share of the expenditure.

SALE OF FUTURE GOODS — BANKRUPTCY — POSSESSION BY VENDEE — PREFERENCE. — The defendant lent money to a partnership, with knowledge of its insolvency, under an agreement that the firm was to manufacture certain property to be his when completed. He took possession of such property within four months prior to the day on which a petition in bankruptcy was filed against the firm. The trustee in bankruptcy sues to recover the property as a voidable preference. *Held*, that he cannot recover. *Sieg* v. *Greene*, 225 Fed. 955 (C. C. A., 8th Circ.).

At one time it seemed that the rule of *Holroyd* v. *Marshall* would not afford protection to a mortgagee of future goods if he acquired possession within four months previous to the filing of a petition in bankruptcy against his mortgagor. *Matthews* v. *Hardt*, 9 Am. B. Rep. 373; *In re Ball*, 123 Fed. 164. See 18 HARV. L. REV. 606. But it is now clearly settled that the mortgagee is protected. *Thompson* v. *Fairbanks*, 196 U. S. 516; *Humphrey* v. *Tatman*, 198 U. S. 91. It seems doubtful whether a similar result in the case of a sale is justified. It is true that when the vendee parts with his money in reliance on a specific return he acquires a right *in specie*, which at once gives equity jurisdiction, and that the intervening insolvency of the vendor, which renders the legal remedy substantially inadequate, gives ground for equitable relief. But the whole spirit of the Bankruptcy Act seems to make the insolvency of the vendor the signal for proportionate distribution of his assets among all of his creditors, and nothing in the statute justifies a preference of specific over general claims. See WILLISTON, SALES, § 144. Nevertheless, the principal case has the support of a previous Supreme Court decision. *Hurley* v. *Atchison, T. & S. F. Ry. Co.*, 213 U. S. 126.

SALES — BREACH OF WARRANTY — WAIVER OF BREACH BY ACCEPTANCE. — In pursuance of a contract to buy and sell all the steers of a certain age then on the ranch of the seller, subject to a fifteen per cent cut, the seller delivered stock depreciated in weight from underfeeding. There was no express warranty in the agreement as to the condition of the cattle. The buyer, because of necessity occasioned by other contracts, accepted the cattle. He did not protest at the time and now seeks to recover damages for the breach. *Held*, that his right of action does not survive the unprotested acceptance of performance. *Cadwell* v. *Higginbotham*, 151 Pac. 315 (N. Mex.).

In ordinary contracts it is well settled that the mere acceptance of a defective performance does not bar the right to sue for a breach. See WILLISTON, SALES, § 485. But in sales and contracts to sell the law is in confusion. Where the